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mail@drny.org



518-432-7861

August 12, 2020

Honorable Lewis J. Liman
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007

The application to submit a written declaration from Mr. Finney is GRANTED. In addition, the Court may have some questions for Mr. Connolly and/or Mr. Cross. Those witnesses shall make themselves available for tomorrow's hearing. The Court further understands that neither party objects to either of those witnesses or any witness either party desires the Court to hear testifying telephonically, should there be a need for testimony. Accordingly, the hearing scheduled for tomorrow morning shall proceed via the public dial-in telephone number below rather than by Skype for Business.

Dial-in: (888) 251-2909

Access code: 2123101

8/12/2020


LEWIS J. LIMAN
United States District Judge

Re: Testimony Update, *Hernandez et al. v. New York State Board of Elections et al.*, Docket No. 20-cv-4003

Dear Judge Liman:

Plaintiffs submit this letter to update this Court of recent news. Last night, Plaintiffs issued a subpoena to Bryan Finney of Democracy Live, a RAVBM vendor. Mr. Finney confirmed receipt of the subpoena and informed Plaintiffs' counsel that he was diagnosed with COVID-19 and will not be well enough to testify at Thursday's Preliminary Injunction hearing. Mr. Finney offered to submit a written declaration of the information he planned to share during his live testimony. Plaintiffs no longer seek to cross-examine Thomas Connolly and William Cross because Mr. Finney is now unavailable to testify on Thursday.

This unanticipated circumstance negates Plaintiffs' need to present live testimony. Plaintiffs informed Defendants of this update, and they expressed no objections to a hearing on the papers and arguments on the motion without live testimony. Respectfully, Plaintiffs seek leave to file any written statement Mr. Finney provides before 5:00p today. Plaintiffs no longer see a need to use Skype for Business as the hearing platform, and defer to this Court for further instructions. Parties have a Skype for Business test call with this Court's clerk at 12:30p today that may be canceled if this Court changes the hearing platform.

Thank you for your consideration.

Sincerely,

/s/ Amanda B. Pearlstein

Amanda B. Pearlstein
Co-counsel for Plaintiffs

ALBANY

725 Broadway, Suite 450
Albany, NY 12207-5001

BROOKLYN

25 Chapel St, Suite 1005
Brooklyn, NY 11201

ROCHESTER

44 Exchange Blvd, Suite 110
Rochester, NY 14614



TTY: 518-512-3448

Fax: 518-427-6561

Toll Free: 1-800-993-8982